

Senate File 2324 - Reprinted

SENATE FILE 2324
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2113)

(As Amended and Passed by the Senate February 25, 2010)

A BILL FOR

1 An Act modifying provisions relating to franchises for the
2 provision of cable service or video service, and including
3 effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 477A.2, subsection 4, Code 2009, is
2 amended to read as follows:

3 4. A competitive cable service provider or competitive
4 video service provider shall provide at least thirty days'
5 notice to each municipality with authority to grant a franchise
6 in the service area, and to the incumbent cable provider, in
7 which the competitive cable service provider or competitive
8 video service provider is granted authority to provide service
9 under a certificate of franchise authority that the competitive
10 cable service provider or competitive video service provider
11 will offer cable services or video services within the
12 jurisdiction of the municipality, and shall not provide service
13 without having provided such thirty days' notice. A copy of
14 the notice shall be filed with the board on the date that the
15 notice is provided. All notices required by this subsection
16 shall be sent by certified mail.

17 Sec. 2. Section 477A.3, Code 2009, is amended to read as
18 follows:

19 **477A.3 Application requirements — certificate of franchise**
20 **authority.**

21 1. The board shall issue a certificate of franchise
22 authority under this chapter within ~~fifteen~~ thirty business
23 days after receipt of a completed application and affidavit
24 submitted by the applicant and signed by an officer or general
25 partner of the applicant, subject to subsection 3. The
26 application and affidavit shall provide all of the following
27 information:

28 a. That the applicant has filed or will timely file with
29 the federal communications commission all forms required by
30 the commission in advance of offering cable service or video
31 service in this state.

32 b. That the applicant agrees to comply with all applicable
33 federal and state statutes, regulations, and rules.

34 c. That the applicant agrees to comply with all applicable
35 state laws and nondiscriminatory municipal ordinances and

1 regulations regarding the use and occupation of a public
2 right-of-way in the delivery of the cable service or video
3 service, to the extent consistent with this chapter, including
4 the police powers of the municipalities in which the service
5 is delivered.

6 *d.* A description of the service area to be served and the
7 municipalities to be served by the applicant which may include
8 certain designations of unincorporated areas. This description
9 shall be updated by the applicant prior to the expansion of
10 cable service or video service to a previously undesignated
11 service area and, upon such expansion, notice shall be given to
12 the board of the service area to be served by the applicant.

13 *e.* The address of the applicant's principal place of
14 business and the names of the applicant's principal executive
15 officers.

16 *f.* Documentation that the applicant possesses sufficient
17 managerial, technical, and financial capability to provide
18 the cable service or video service proposed in the service
19 area. An applicant or its subsidiary which has been issued
20 a certificate of public convenience and necessity to provide
21 telephone service pursuant to section 476.29 shall be exempt
22 from the provisions of this paragraph.

23 *g.* Copies of advertisements or news releases announcing the
24 applicant's intent to provide cable service or video service
25 in the service area intended for release if the certificate of
26 franchise authority is granted.

27 *h.* A schedule of dates by which the applicant intends to
28 commence operation in each municipality proposed to be served
29 within the service area. This schedule shall be timely updated
30 by the applicant as necessary to maintain accuracy.

31 2. In addition to the notice requirements in section
32 477A.2, subsection 4, an applicant shall provide notice to each
33 municipality with authority to grant a franchise in the service
34 area on the date that the application is submitted that the
35 applicant has submitted an application to the board pursuant to

1 subsection 1.

2 3. a. The board shall not issue a certificate of franchise
3 authority to an applicant unless the board finds that all
4 of the requirements specified in subsection 1, paragraphs
5 "f" through "h" have been met.

6 b. The board may take up to an additional sixty days,
7 beyond the thirty-day period for issuance of a certificate of
8 franchise authority specified in subsection 1, if the board
9 determines that additional information will be required to make
10 a determination regarding whether the requirements specified in
11 subsection 1, paragraphs "f" through "h" have been met, and that
12 the determination cannot be made within the thirty-day period.

13 c. The board may assess an applicant not otherwise paying
14 a fee or assessment to the board for the costs incurred by the
15 board during a review of an application and affidavit under the
16 circumstances described in paragraph "b", and any additional
17 costs incurred resulting from a contested case proceeding
18 requested pursuant to chapter 17A.

19 ~~2.~~ 4. The failure of the board to notify the applicant
20 of the completeness of the applicant's affidavit or
21 issue a certificate of franchise authority before the
22 ~~fifteenth~~ thirtieth business day after receipt of a completed
23 affidavit shall constitute issuance of the certificate of
24 franchise authority applied for by the applicant without
25 further action by the applicant.

26 ~~3.~~ 5. The certificate of franchise authority issued by the
27 board shall contain all of the following:

28 a. A grant of authority to provide cable service or video
29 service in the service area designated in the application.

30 b. A grant of authority to use and occupy the public
31 right-of-way in the delivery of cable service or video service,
32 subject to the laws of this state, including the police powers
33 of the municipalities in which the service is delivered.

34 c. A statement that the grant of authority provided by the
35 certificate is subject to the lawful operation of the cable

1 service or video service by the applicant or the applicant's
2 successor.

3 *d.* A statement that the franchise is for a term of ten
4 years, is renewable under the terms of this section, and is
5 nonexclusive.

6 6. a. If the holder of a certificate of franchise authority
7 fails to commence operation of a cable system or video service
8 network within twelve months from the date the application is
9 granted, the board may determine that the applicant is not in
10 compliance with the certificate of franchise authority and may
11 revoke the certificate.

12 b. If a certificate is revoked pursuant to this subsection,
13 and if the franchise agreement previously in effect between
14 an incumbent cable provider and the municipality would have
15 remained in effect for at least a sixty-day period prior
16 to expiration, the previous franchise agreement shall be
17 reinstated for the duration of the previous agreement. The
18 incumbent cable provider shall comply with the terms of the
19 prior franchise agreement within ninety days of notification by
20 the board. This paragraph is applicable to an incumbent cable
21 provider who has not been issued a certificate of franchise
22 authority pursuant to section 477A.2, subsection 6, as of the
23 effective date of this Act.

24 7. a. In the event that an applicant granted a certificate
25 of franchise authority subsequently ceases to engage in
26 construction or operation of a cable system or video service
27 network and is no longer providing service, the applicant
28 shall notify the municipality, the board, and the incumbent
29 cable provider on the date that construction or service is
30 terminated.

31 b. If the franchise agreement previously in effect between
32 an incumbent cable provider and the municipality would have
33 remained in effect for at least a sixty-day period prior
34 to expiration, the previous franchise agreement shall be
35 reinstated for the duration of the previous agreement. The

1 incumbent cable provider shall comply with the terms of the
2 prior franchise agreement within ninety days of notification by
3 the applicant. This paragraph is applicable to an incumbent
4 cable provider who has not been issued a certificate of
5 franchise authority pursuant to section 477A.2, subsection 6,
6 as of the effective date of this Act.

7 ~~4.~~ 8. A certificate of franchise authority issued by
8 the board is fully transferable to any successor of the
9 applicant to which the certificate was initially issued.
10 A notice of transfer shall be filed by the holder of the
11 certificate of franchise authority with the board and
12 the affected municipality and shall be effective fourteen
13 business days after submission. The notice of transfer shall
14 include the address of the successor's principal place of
15 business and the names of the successor's principal executive
16 officers. The successor shall assume all regulatory rights and
17 responsibilities of the holder of the certificate. Neither
18 the board nor an affected municipality shall have authority to
19 review or require approval of such transfer.

20 ~~5.~~ 9. The certificate of franchise authority issued by the
21 board may be terminated by a person providing cable service or
22 video service by submitting written notice to the board and
23 any affected municipality. Neither the board nor an affected
24 municipality shall have authority to review or require approval
25 of such termination.

26 ~~6.~~ 10. The board shall only have the authorization to
27 issue a certificate of franchise authority as provided in this
28 section, and shall not impose any additional requirements or
29 regulations upon an applicant.

30 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
31 immediate importance, takes effect upon enactment.